

Daily Journal

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TOP VERDICTS

THE LARGEST AND MOST SIGNIFICANT VERDICTS
AND APPELLATE REVERSALS IN CALIFORNIA IN 2023

Southern California Gas Company v. Public Utilities Commission of the State of California

For years, the Public Advocates Office of the California Public Utilities Commission has demanded access to “below-the-line” accounts and expenditures paid for by Southern California Gas Company (SoCalGas)’s own shareholders, ostensibly to ensure that “above-the-line” accounts and expenditures paid for by ratepayers weren’t used to pay for below-the-line expenses, such as political and public policy advocacy. SoCalGas repeatedly asserted its First Amendment and other rights to resist such compelled disclosure, and, represented by a team of Gibson Dunn attorneys led by Julian W. Poon, the co-chair of the firm’s Appellate and Constitutional Law Practice Group, ultimately prevailed in the Second Appellate District of the California Court of Appeal.

“The government was putting significant pressure on our client to disclose information about its use of shareholder funds, including by seeking large monetary fines,” noted petitioners’ attorney Michael H. Dore in an email, “but the First Amendment safeguards our right to associate with others. The government needs to meet a strict test to force someone to disclose with whom they’re associating because that compelled disclosure can chill speech.”

In January 2023, the California Court of Appeal vacated the portion of the resolution with respect to shareholder data, claiming that the revelation of the requested information would undermine First Amendment rights. Justice Victoria G. Chaney wrote that “the commission failed to show that its interest

in determining whether SoCalGas’ political efforts are impermissibly funded outweighs that impact.”

The court ruled that ratepayer information alone is enough to determine whether the utility is correctly apportioning political advocacy costs and that the requests were “not carefully tailored to avoid unnecessary interference with SoCalGas’ protected activities.” Regarding the “chilling effect” on shareholder association, Chaney wrote, “It is not SCG’s subjective fear that disclosure of shareholder expenditure information would dissuade third parties from communicating or contracting with SCG: Several third parties told them it would.”

When the California Supreme Court denied the commission’s petition for review and its request for de-



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publication in April 2023, it further cemented the precedent-setting decision.

“It was a hard-fought, multiyear battle against the commission,” noted Julian W. Poon, lead counsel for SoCalGas, in an email. “The broader significance of the Court of Appeal’s published, precedential decision in our favor is that it vindicates the First Amendment rights of association of corporations, organizations, and all of us.”

— KATHRYN STELMACH ARTUSO

CASE DETAILS	CASE NAME	Southern California Gas Company v. Public Utilities Commission of the State of California
	TYPE OF CASE	First Amendment right of association
	COURT	California Court of Appeal, Second Appellate District
	JUDGE(S)	Justice Victoria Chaney, Presiding Justice Frances Rothschild, Justice Helen I. Bendix
	PETITIONERS’ LAWYERS	Gibson, Dunn & Crutcher LLP, Julian W. Poon, Michael H. Dore, Andrew T. Brown, Daniel M. Rubin
	DEFENSE LAWYERS	California Public Utilities Commission, Carrie G. Pratt, Arocles Aguilar, Mary E. McKenzie, Edward Moldavsky